

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CIRIACO SILVERIO,

Movant,

- against -

UNITED STATES OF AMERICA,

Respondent.

ORDER

16 Civ. 4857 (PGG)

10 Cr. 661 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

On June 22, 2016, Ciriaco Silverio filed a petition to vacate his conviction for using or carrying a firearm in relation to a “crime of violence,” in violation of 18 U.S.C. § 924(c). The “crime of violence” on which Silverio’s Section 924(c) conviction is predicated is conspiracy to commit Hobbs Act robbery.

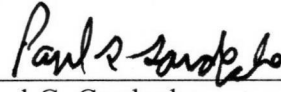
On May 7, 2019, the Court granted Petitioner’s request to stay this action pending the Supreme Court’s decision in United States v. Davis, No. 18-431. On June 24, 2019, the Supreme Court issued its decision in Davis, holding that 18 U.S.C. § 924(c)(3)(B) – in which “crime of violence” is defined – is unconstitutionally vague. United States v. Davis, 139 S. Ct. 2319, 2336 (2019). The Government agrees that, in light of Davis, Silverio’s Section 924(c) conviction cannot stand, and he must be resentenced. (Govt. Ltr. (Dkt. No. 199))

Accordingly, Silverio will be resentenced on **Wednesday, February 19, 2020 at 4:30 p.m.** in Courtroom 705 of the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York. The Government will consent to vacatur of Silverio’s Section 924(c) conviction at that time, and Silverio will be resentenced on the remaining counts of conviction. Any sentencing submissions on behalf of Silverio are due on **February 5, 2020**; and any submission from the Government is due on **February 12, 2020**.

It is further ORDERED that the Probation Department prepare a supplemental
presentence investigation report for Silverio.

Dated: New York, New York
November 22, 2019

SO ORDERED.

A handwritten signature in black ink, appearing to read "Paul G. Gardephe", is written over a horizontal line.

Paul G. Gardephe
United States District Judge